

REMARKS/ARGUMENTS

I. Introduction:

Claims 36, 41, 45 48, 49, 53, 65, 80, 82, 90 are amended and claims 35, 52, and 83 are canceled herein. With entry of this amendment, claims 2-9, 12-21, 30-34, 36, 37, 40-45, 47-49, 51, 53-56, 65-74, 80, 82, 84, and 86-91 will be pending.

Applicants acknowledge the Examiner's allowance of claims 2-9, 14-21, 30-34, 37, 40, 89, and 91. Claim 45 has been amended to include the limitations of dependent claim 52, which was objected to in the Office Action dated May 18, 2005, and as amended, is believed to be in proper form for allowance. Claims 47, 48, 51, and 80 depending from claim 45 are also submitted to be in proper form for allowance.

II. Claim Rejections – 35 U.S.C 112:

Claim 48 has been amended to clarify that the port controller referenced at line 6 is the port controller of the second network element.

Claim 53 has been amended to clarify that the network comprises a plurality of network elements.

Claim 65 has been amended to clarify that the Ethernet system comprises a plurality of network elements. Claim 65 has been further amended as requested by the Examiner to remove the term "Ethernet frame".

Claim 80 has been amended to replace "Ethernet frames" with "Ethernet packets" as requested by the Examiner.

Claims 80 and 82 have been amended to replace "method" with "system" and "computer program product", respectively.

Claim 90 has been amended to clarify that the format of the Ethernet packet is maintained, as requested by the Examiner.

Claims 48, 53, 65, 80, 82, and 90, as amended, are believed to comply with the requirements of 35 U.S.C. 112.

III. Claim Rejections – 35 U.S.C. 101:

Claim 53 has been amended to exclude a data signal embodied in a carrier wave as a computer-readable storage medium, as requested by the Examiner. As amended, claim 53 and the claims depending therefrom, are believed to comply with 35 U.S.C. 101.

IV. Claim Rejections – 35 U.S.C. 102:

Claims 41-44, 49, 84, 86-88, and 90 stand rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,559,796 (Edem et al.).

Claim 41 is directed to a method for supporting management of a network. The method generally comprises receiving a modified Ethernet packet, replacing a header in the modified packet with a preamble to create an Ethernet packet, and transmitting the Ethernet packet. The header is the same size as the preamble and is configured to provide support for network management. Claim 41 has been amended to specify that the header provides operations, administration, and maintenance.

Applicants respectfully submit that Edem et al. do not disclose a modified packet comprising a header configured to provide operations, administration and management or a header that is the same size as the preamble.

Edem et al. are directed to delay control for frame-based transmission of data. Information about variability in delays at the transmitting end is sent to the receiving node. The receiving node uses the information to eliminate variability. A value from a counter replaces preamble data in a nibble-wise fashion (Table IV). As shown in Table IV, it is only the first few nibbles of the preamble that are replaced. Edem et al. do not use a modified a packet comprising a header that is the same size as the preamble, as set forth in claim 41.

Furthermore, the only information inserted into the packet is information about variability in delays between two nodes. There is no conventional network operations, administration, and maintenance information provided in the bits that are inserted into the preamble. As well known by those skilled in the art, OAM (operations, administration, maintenance) is a group of management functions that provides system or network fault indication, performance monitoring, security management, diagnostic functions, configuration and user provisioning.

Accordingly, claim 41 is submitted as not anticipated by Edem et al.

Claims 42-44, 84, 86-88, and 90, depending either directly or indirectly from claim 41, are submitted as patentable for at least the same reasons as claim 41.

Claims 86 and 87 are further submitted as patentable because Edem et al., do not specifically disclose transmitting the Ethernet packet without a SONET frame or SONET overhead, as required by claims 86 and 87, respectively.

Claim 49 is directed to an Ethernet network system comprising a port controller and a network element controller. The port controller is operable to receive an Ethernet packet, modify the packet by inserting a header in place of the preamble within the packet while maintaining the format of the Ethernet packet. The header is configured to provide support for network management. The port controller comprises a CDL handler and an electrical or optical converter. Claim 49 has been amended to specify

that the header includes an operations, administration, and maintenance field. Edem et al. do not insert an operations, administration, and maintenance field into the Ethernet packet. Accordingly, claim 49 is submitted as patentable over the prior art of record.

V. Conclusion:

For the foregoing reasons, applicants believe that all of the pending claims are in condition for allowance and should be passed to issue. If the Examiner feels that a telephone conference would in any way expedite the prosecution of the application, please do not hesitate to call the undersigned at (408) 399-5608.

Respectfully submitted,



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